

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 135.102, the Department of Public Health hereby amends Chapter 70, "Lead-Based Paint Activities," Iowa Administrative Code.

The amendment amends the definition of "minor repair and maintenance activities." The change in the definition will, in limited instances, increase the minimum area of disturbed painted surface that triggers regulation.

This amendment was requested by the remodeling industry. The Department worked with the industry to expand the minimum area but still maintain the intent of the regulation. The overall intent of the regulation is to prevent children from being lead-poisoned due to unsafe renovations.

Notice of Intended Action was published in the October 3, 2012, Iowa Administrative Bulletin as **ARC 0369C**. One comment was received. The comment received was from an inspector/training provider in Iowa and read:

I do not think the exterior surface area should be changed. I do lead inspections on a regular basis and I am almost always finding homes built before 1960 with deteriorated lead-based paint on the exterior siding/fascia/porch overhangs [and] columns. In most cases there are some amounts of visible paint chips and bare soil present and when children are present they tend to stay next to the house and play in these areas in close proximity to the house walls.

The Department agrees that it is typical for exterior hazards to be present on the exterior of homes built before 1960. Paint chips and bare soil are typical hazards found in these homes. However, the change to the definition in question does not change this fact. These exterior hazards are expected to be present whether this definition changes or not. The Department is not proposing to change the definition that determines when exterior lead-based paint becomes hazardous. Any deteriorated lead-based paint or chips are currently considered hazards, and this definition will not change that. Prohibited work practices, window replacement, and demolition of painted surfaces are never exempted even if the area is less than 20 square feet.

The adopted amendment is identical to the one published under Notice.

The State Board of Health adopted this amendment on November 14, 2012.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 135.105A.

This amendment will become effective January 16, 2013.

The following amendment is adopted.

Amend rule **641—70.2(135)**, definition of "Minor repair and maintenance activities," as follows:

"Minor repair and maintenance activities" means activities, including minor heating, ventilation or air-conditioning work, electrical work, and plumbing, that disrupt less than ~~4.0 square feet~~ the minimum areas of a painted surface established in this definition where none of the work practices prohibited or restricted by this chapter are used and where the work does not involve window replacement or demolition of painted surface areas. When painted components or portions of painted components are removed, the entire surface area removed is the amount of painted surface disturbed. Projects, other than emergency renovation, performed in the same room within the same 30 days must be considered the same project for the purpose of determining whether the project is a minor repair and maintenance activity. Renovations performed in response to an elevated blood lead (EBL) inspection are not considered minor repair and maintenance activities. The minimum area for minor repair and maintenance activities is:

1. Less than 1.0 square foot of an interior painted or finished wood surface per renovation;
2. Less than 6.0 square feet of a painted or finished drywall or plaster surface per room; or
3. Less than 20.0 square feet of an exterior painted or finished surface per renovation.

Projects performed pursuant to 24 CFR Part 35 shall comply with the de minimis levels in 24 CFR 35.1350 if these de minimis levels are more restrictive than the minimum areas of a painted surface established in this definition.

[Filed 11/14/12, effective 1/16/13]

[Published 12/12/12]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/12/12.